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EXAMINER

MANNING, JOHN

ART UNIT	PAPER NUMBER
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2614

DATE MAILED: 07/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/802,742

Applicant(s)

CARLILE, JOHN R.

Examiner

John Manning

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-4 and 6 are rejected under 35 U.S.C. 102(e) as being anticipated by Soll et al. (US Pat Pub No 2003/0055679).

In regard to claim 1, Soll discloses a system and method of a network of client-server computers with individual workstations for accessing systems programs and providing select services. The claimed steps of “providing a physician's office with a patient waiting room”, “providing the waiting room with an in-waiting room video display unit” and “continually playing a sub-set of the programming over the in-waiting room video display unit to afford interested waiting-room parties the opportunity to view the programming” is met by Figure 1. The “patients use a patient carrel 10 (FIG. 1) in a private cubicle near the waiting room to directly input their responses to questions regarding symptoms and psychosocial issues. This patient carrel is typically configured as depicted in FIG. 2, comprising a display terminal 70 for presenting questions and other information and a touch-sensitive screen, which has icons 75 and text to guide the patient through the assessment module” (Paragraph 0080). “To improve patient

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comprehension, this module incorporates video clips and audio and visual aids so that appropriate information is conveyed to the patient regarding the intervention they will receive. Because the information presented can be catered to patient characteristics, appeals to a variety of learning styles with its multimedia format, and can be reviewed or repeated at the patient's pace, this sequence provides an effective means for education on informed consent issues" (Paragraph 0097). The claimed step of "providing a remote database with health-care information video programming encompassing at least matters of the diagnosis of disease or disorder or, as well, matters of medications, procedures or other treatments" is met by Figure 1 Item 30. "The patient carrel 10 is equipped with a PC-based computer (IBM-compatible or MAC), typically Pentium class, and is linked to the network (two are depicted in FIG. 1). These workstations are programmed to communicate with the central support server/database 30 to provide the requisite functionality to patients and physicians, as will be discussed in more detail below" (Paragraph 0076). The reference discloses providing the user with Internet access to the remote database for research. The "CPM system can connect with third party systems, such as insurance companies via network, Internet, or modem applications. The system also includes a centralized data warehouse/server that can serve Internet or modem applications from distant sites for the purposes of accessing patient records, research, quality assessments, and benchmarking performance" (Paragraph 0079).

In regard to claim 2, Soll discloses that the video programming comprises full audio-visual formats. "To improve patient comprehension, this module incorporates

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video clips and audio and visual aids so that appropriate information is conveyed to the patient regarding the intervention they will receive. Because the information presented can be catered to patient characteristics, appeals to a variety of learning styles with its multimedia format, and can be reviewed or repeated at the patient's pace, this sequence provides an effective means for education on informed consent issues" (Paragraph 0097).

In regard to claim 3, the claimed step of "an intermediate database for the subset of programming" is met by server/database 30. "The patient carrel 10 is equipped with a PC-based computer (IBM-compatible or MAC), typically Pentium class, and is linked to the network (two are depicted in FIG. 1). These workstations are programmed to communicate with the central support server/database 30 to provide the requisite functionality to patients and physicians, as will be discussed in more detail below" (Paragraph 0076).

In regard to claim 4, Soll discloses that the server/database 30 comprises a LAN device. "The system employs a network of client-server computers, with individual workstations for accessing system programs and providing select services. The patient carrel 10 is equipped with a PC-based computer (IBM-compatible or MAC), typically Pentium class, and is linked to the network (two are depicted in FIG. 1). These workstations are programmed to communicate with the central support server/database 30 to provide the requisite functionality to patients and physicians, as will be discussed in more detail below" (Paragraph 0076).

In regard to claim 6, the claimed step of "providing the physician's offices at least one back office provided with at least one back office video display unit for playing selections of the health-care video programming chosen by a physician or staff for the viewing of a patient party for instruction or education purposes" is met by Figure 1, Item 40. The "physician workstation 40, typically placed in the examining room, operates to provide the physician with CPM problem-oriented patient evaluation and historical information and management guidelines. Physician workstations communicate with the CPM server/database 30" (Paragraph 0079). "The physician can also input other assessment data (e.g., other problems or physical findings), select management options, and select patient education materials" (Paragraph 0083).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 5 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Soll et al.

In regard to claim 5, Soll discloses the system accessing information from the Internet. The reference is silent with respect to the accessing video and control information from the Internet. Official notice is taken that is well known in the art to access video and control information from the Internet so as to take advantage of the

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internet's far reaching infrastructure. Consequently, it would have been obvious to one of ordinary skill in the art to implement Soll with the accessing video and control information from the Internet for the stated advantage.

In regard to claim 8, Soll is silent with respect to the correlation of programming with an index code. Official notice is taken that is well known in the art to correlate programming with an index code so as to offer a short hand method of identifying programming. Consequently, it would have been obvious to one of ordinary skill in the art to implement Soll with the correlation of programming with an index code for the stated advantage.

5. Claims 7 and 9-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Soll et al. in view of Ballantyne et al. (US Pat No 5,867,821).

In regard to claim 7, Soll is silent with respect review given selections of the remote database's health-care information video programming independently from the physician's office for instruction or education purposes. Ballantyne teaches extending the functionality of the system to the patient's residence (i.e. a location independent from the physician's office) so as to increase the number of people educated. "The ML is linked to external sources via Direct Broadcast Satellite (DBS) equipment, to receive or transmit relevant information. It is also linked to external clinics, other hospitals, medical schools, general practitioner's offices, and patients' residences through landline communications (twisted pair, coaxial cabling, fiber optic cable), DBS or wireless communications (44)" (Col 6, Lines 49-53). Consequently, it would have been obvious

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to one of ordinary skill in the art to implement Soll with the extended functionality of the system to a diversity of distributed physician offices for the stated advantage.

In regard to claim 9, Soll discloses a system and method of a network of client-server computers with individual workstations for accessing systems programs and providing select services. The steps of providing a physician's office with a patient waiting room, providing the waiting room with an in-waiting room video display unit and continually playing a sub-set of the programming over the in-waiting room video display unit to afford interested waiting-room parties the opportunity to view the programming is met by Figure 1. The "patients use a patient carrel 10 (FIG. 1) in a private cubicle near the waiting room to directly input their responses to questions regarding symptoms and psychosocial issues. This patient carrel is typically configured as depicted in FIG. 2, comprising a display terminal 70 for presenting questions and other information and a touch-sensitive screen, which has icons 75 and text to guide the patient through the assessment module" (Paragraph 0080). "To improve patient comprehension, this module incorporates video clips and audio and visual aids so that appropriate information is conveyed to the patient regarding the intervention they will receive. Because the information presented can be catered to patient characteristics, appeals to a variety of learning styles with its multimedia format, and can be reviewed or repeated at the patient's pace, this sequence provides an effective means for education on informed consent issues" (Paragraph 0097). The claimed step of "providing a remote database with health-care information video programming encompassing at least matters of the diagnosis of disease or disorder or, as well, matters of medications,

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procedures or other treatments" is met by Figure 1 Item 30. "The patient carrel 10 is equipped with a PC-based computer (IBM-compatible or MAC), typically Pentium class, and is linked to the network (two are depicted in FIG. 1). These workstations are programmed to communicate with the central support server/database 30 to provide the requisite functionality to patients and physicians, as will be discussed in more detail below" (Paragraph 0076). The reference discloses providing the user with Internet access to the remote database for research. "CPM system can connect with third party systems, such as insurance companies via network, Internet, or modem applications. The system also includes a centralized data warehouse/server that can serve Internet or modem applications from distant sites for the purposes of accessing patient records, research, quality assessments, and benchmarking performance" (Paragraph 0079). Soll is silent with respect to a diversity of distributed physician offices. Ballantyne teaches extending the functionality of the system to a diversity of distributed physician offices so as to increase the number of people educated. "The ML is linked to external sources via Direct Broadcast Satellite (DBS) equipment, to receive or transmit relevant information. It is also linked to external clinics, other hospitals, medical schools, general practitioner's offices, and patients' residences through landline communications (twisted pair, coaxial cabling, fiber optic cable), DBS or wireless communications (44)" (Col 6, Lines 49-53). Consequently, it would have been obvious to one of ordinary skill in the art to implement Soll with the extended functionality of the system to a diversity of distributed physician offices for the stated advantage.

In regard to claim 10, Soll discloses that the video programming comprises full audio-visual formats. "To improve patient comprehension, this module incorporates video clips and audio and visual aids so that appropriate information is conveyed to the patient regarding the intervention they will receive. Because the information presented can be catered to patient characteristics, appeals to a variety of learning styles with its multimedia format, and can be reviewed or repeated at the patient's pace, this sequence provides an effective means for education on informed consent issues" (Paragraph 0097).

In regard to claim 11, the claimed step of "an intermediate database for the sub-set of programming" is met by server/database 30. "The patient carrel 10 is equipped with a PC-based computer (IBM-compatible or MAC), typically Pentium class, and is linked to the network (two are depicted in FIG. 1). These workstations are programmed to communicate with the central support server/database 30 to provide the requisite functionality to patients and physicians, as will be discussed in more detail below" (Paragraph 0076).

In regard to claim 12, Soll discloses that the server/database 30 comprises a LAN device. "The system employs a network of client-server computers, with individual workstations for accessing system programs and providing select services. The patient carrel 10 is equipped with a PC-based computer (IBM-compatible or MAC), typically Pentium class, and is linked to the network (two are depicted in FIG. 1). These workstations are programmed to communicate with the central support server/database

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30 to provide the requisite functionality to patients and physicians, as will be discussed in more detail below" (Paragraph 0076).

In regard to claim 13, combined teaching discloses the system accessing information from the Internet. The reference is silent with respect to the accessing video and control information from the Internet. Official notice is taken that is well known in the art to access video and control information from the Internet so as to take advantage of the internet's far reaching infrastructure. Consequently, it would have been obvious to one of ordinary skill in the art to implement the combined teaching with the accessing video and control information from the Internet for the stated advantage.

In regard to claim 14, the claimed step of "providing the physician's offices at least one back office provided with at least one back office video display unit for playing selections of the health-care video programming chosen by a physician or staff for the viewing of a patient party for instruction or education purposes" is met by Figure 1, Item 40. The "physician workstation 40, typically placed in the examining room, operates to provide the physician with CPM problem-oriented patient evaluation and historical information and management guidelines. Physician workstations communicate with the CPM server/database 30" (Paragraph 0079). "The physician can also input other assessment data (e.g., other problems or physical findings), select management options, and select patient education materials" (Paragraph 0083).

In regard to claim 15, Ballantyne teaches extending the functionality of the system to the patient's residence (i.e. a location independent from the physician's office) so as to increase the number of people educated. "The ML is linked to external sources

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via Direct Broadcast Satellite (DBS) equipment, to receive or transmit relevant information. It is also linked to external clinics, other hospitals, medical schools, general practitioner's offices, and patients' residences through landline communications (twisted pair, coaxial cabling, fiber optic cable), DBS or wireless communications (44)" (Col 6, Lines 49-53).

In regard to claim 16, the combined teaching is silent with respect to the correlation of programming with an index code. Official notice is taken that is well known in the art to correlate programming with an index code so as to offer a short hand method of identifying programming. Consequently, it would have been obvious to one of ordinary skill in the art to implement the combined teaching with the correlation of programming with an index code for the stated advantage.

In regard to claims 17-18, Soll discloses a system and method of a network of client-server computers with individual workstations for accessing systems programs and providing select services. The steps of providing a physician's office with a patient waiting room, providing the waiting room with an in-waiting room video display unit and continually playing a sub-set of the programming over the in-waiting room video display unit to afford interested waiting-room parties the opportunity to view the programming is met by Figure 1. The "patients use a patient carrel 10 (FIG. 1) in a private cubicle near the waiting room to directly input their responses to questions regarding symptoms and psychosocial issues. This patient carrel is typically configured as depicted in FIG. 2, comprising a display terminal 70 for presenting questions and other information and a touch-sensitive screen, which has icons 75 and text to guide the patient through the

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assessment module" (Paragraph 0080). "To improve patient comprehension, this module incorporates video clips and audio and visual aids so that appropriate information is conveyed to the patient regarding the intervention they will receive. Because the information presented can be catered to patient characteristics, appeals to a variety of learning styles with its multimedia format, and can be reviewed or repeated at the patient's pace, this sequence provides an effective means for education on informed consent issues" (Paragraph 0097). The claimed step of "providing a remote database with health-care information video programming encompassing at least matters of the diagnosis of disease or disorder or, as well, matters of medications, procedures or other treatments" is met by Figure 1 Item 30. "The patient carrel 10 is equipped with a PC-based computer (IBM-compatible or MAC), typically Pentium class, and is linked to the network (two are depicted in FIG. 1). These workstations are programmed to communicate with the central support server/database 30 to provide the requisite functionality to patients and physicians, as will be discussed in more detail below" (Paragraph 0076). The reference discloses providing the user with Internet access to the remote database for research. "CPM system can connect with third party systems, such as insurance companies via network, Internet, or modem applications. The system also includes a centralized data warehouse/server that can serve Internet or modem applications from distant sites for the purposes of accessing patient records, research, quality assessments, and benchmarking performance" (Paragraph 0079). Soll is silent with respect to a diversity of distributed physician offices. Ballantyne teaches extending the functionality of the system to a diversity of distributed physician

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offices so as to increase the number of people educated. "The ML is linked to external sources via Direct Broadcast Satellite (DBS) equipment, to receive or transmit relevant information. It is also linked to external clinics, other hospitals, medical schools, general practitioner's offices, and patients' residences through landline communications (twisted pair, coaxial cabling, fiber optic cable), DBS or wireless communications (44)" (Col 6, Lines 49-53). Consequently, it would have been obvious to one of ordinary skill in the art to implement Soll with the extended functionality of the system to a diversity of distributed physician offices for the stated advantage. The combined teaching is silent with respect to publishing a mnemonic (correlation code) in connection with a given piece of programming. Official notice is taken that is well known in the art to correlate programming with an index code so as to offer a short hand method of identifying programming. Consequently, it would have been obvious to one of ordinary skill in the art to implement the combined teaching with the correlation of programming with an index code for the stated advantage.

In regard to claim 19, the claimed step of "providing the physician's offices at least one back office provided with at least one back office video display unit for playing selections of the health-care video programming chosen by a physician or staff for the viewing of a patient party for instruction or education purposes" is met by Figure 1, Item 40. The "physician workstation 40, typically placed in the examining room, operates to provide the physician with CPM problem-oriented patient evaluation and historical information and management guidelines. Physician workstations communicate with the CPM server/database 30" (Paragraph 0079). "The physician can also input other

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assessment data (e.g., other problems or physical findings), select management options, and select patient education materials" (Paragraph 0083).

In regard to claim 20, Ballantyne teaches extending the functionality of the system to the patient's residence (i.e. a location independent from the physician's office) so as to increase the number of people educated. "The ML is linked to external sources via Direct Broadcast Satellite (DBS) equipment, to receive or transmit relevant information. It is also linked to external clinics, other hospitals, medical schools, general practitioner's offices, and patients' residences through landline communications (twisted pair, coaxial cabling, fiber optic cable), DBS or wireless communications (44)" (Col 6, Lines 49-53).

Conclusion

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Manning whose telephone number is 571-272-7352. The examiner can normally be reached on M-F: 9:00 - 5:30.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John W. Miller can be reached on 571-272-7353. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JM

June 25, 2005


JOHN MILLER
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